1/5/2011

Summary of responses regarding the treatment of nonconforming uses by financial institutions

- General misunderstanding regarding the provisions permitting nonconforming uses to be reconstructed if a building permit is pulled within 6 months.
- Concern about the loss of legal nonconforming use status following a one year period of vacancy, potentially due to foreclosure. City Attorney's Office has made the determination that a property that is actively being marketed for the legal nonconforming use will not lose it status during that time.
- Potential to affect the down payment requirement and financing conditions if the land is valued based on the underlying, more restrictive, zoning.
- Regarding expansions and remodeling, this is more of a concern for the business owner. Banks make loans on the original property conditions and assume that those conditions are sufficient to service the debt. There was no discussion of refinancing to do an expansion or remodel, which would be contingent on Planning Commission approval adding an element of uncertainty and additional time.
- Risk to the lender increases if the underlying zoning renders the use nonconforming; this
 risk can be managed through underwriting.

Lending institutions that responded: Anchor Bank Park Midway Bank Grandbridge Capital M & I Bank